



Billing Code 3720-58

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

Disestablishment of Danger Zone for Meteorological Rocket Launching Facility,

Shemya Island Area, AK

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Direct final rule.

SUMMARY: The U.S. Air Force has requested that the U.S. Army Corps of Engineers (Corps) disestablish the existing danger zone located in the Bering Sea near Shemya Island, Alaska. The danger zone was established on September 28, 1971. The purpose of the danger zone was to protect persons and property from dangers encountered in the area associated with the launching of weather rockets. The facility has not been used for this activity since the mid-1980s. As a result of the discontinued use of this area, the Air Force has requested the danger zone be disestablished.

DATES: This rule is effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further notice, unless the Corps receives adverse comment by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If we receive such adverse comment, we will publish a timely withdrawal in the Federal Register informing the public that this rule will not take effect.

ADDRESSES: You may submit comments, identified by docket number COE-2016-0003, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Email: david.b.olson@usace.army.mil. Include the docket number, COE-2016-0003, in the subject line of the message.

Mail: U.S. Army Corps of Engineers, Attn: CECW-CO (David B. Olson), 441 G Street NW., Washington, DC 20314-1000.

Hand Delivery/Courier: Due to security requirements, we cannot receive comments by hand delivery or courier.

Instructions: Direct your comments to docket number COE-2016-0003. All comments received will be included in the public docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through [regulations.gov](http://www.regulations.gov) or email. The [regulations.gov](http://www.regulations.gov) Web site is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to the Corps without going through [regulations.gov](http://www.regulations.gov), your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, we recommend

that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov*. All documents in the docket are listed.

Although listed in the index, some information is not publicly available, such as CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, D.C. at 202-761-4922 or Ms. Linda Speerstra, U.S. Army Corps of Engineers, Alaska District, Regulatory Division, at 907-747-0658.

#### SUPPLEMENTARY INFORMATION:

By letter dated December 18, 2015, the Chief, Pacific Air Forces Weather Operations Branch, Joint Base Pearl Harbor-Hickam, Hawaii requested the disestablishment of the danger zone at Meteorological Rocket Launching Facility on Shemya Island, Alaska. This request was made because the facility has not been used since the mid-1980s. In response to this request by the Pacific Air Forces Weather Operations Branch, and pursuant to its authorities in Section 7

of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3), the Corps is amending the regulation at 33 CFR part 334 by disestablishing the danger zone in the waters of the Bering Sea, Meteorological Rocket Launching Facility on Shemya Island Area, Alaska.

The Corps is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comment. The Corps regulations governing restricted areas state that notice of proposed rulemaking and public procedures are not needed before publishing a final rule revoking a danger zone area (see 33 CFR 334.5(b)).

In the “Proposed Rules” section of today’s Federal Register, we are publishing a separate document that will serve as the proposal to disestablish this danger zone if adverse comments are filed. This rule will be effective on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further notice unless we receive adverse comment by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If we receive adverse comment, we will publish a timely withdrawal in the Federal Register informing the public that the direct final rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

#### Procedural Requirements

a. Review Under Executive Order 12866. This rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act. This rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small governments). The Corps has determined that the removal of the danger zone area will have no economic impact on the public because the area has not been used to launch weather rockets since the mid-1980s. The removal of the danger zone will decrease economic impacts on small entities because they will no longer have to comply with that regulation. The proposal will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act. The Corps expects that the final rule will not have a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement will not be required. An environmental assessment has been prepared and it may be reviewed at the District office listed at the end of the FOR FURTHER INFORMATION CONTACT, above. If we receive adverse comment, an environmental assessment will be prepared for the subsequent decision on the final rule.

d. Unfunded Mandates Act. The final rule does not impose an enforceable duty among the private sector and, therefore, are not a Federal private sector

mandate and are not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Reform Act (Pub. L. 104–4, 109 Stat. 48, 2 U.S.C. 1501 *et seq.*). We have also found under Section 203 of the Act, that small governments will not be significantly or uniquely affected by this rulemaking.

#### List of Subjects in 33 CFR Part 334

Danger zones, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps amends 33 CFR part 334 as follows:

#### PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for 33 CFR part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

#### § 334.1290 [Removed]

2. Remove § 334.1290.

DATE\_March 18, 2016\_ APPROVED\_\_\_\_\_

Edward E. Belk, Jr., P.E.

Chief, Operations and Regulatory Division

Directorate of Civil Works

[FR Doc. 2016-06860 Filed: 3/24/2016 8:45 am; Publication Date: 3/25/2016]